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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BATTALION CHIEF GRANDCHILDREN'S
FUND, by and through its trustee ANGELINA
GALLINDO on behalf of herself and the
nominal defendant SRC NIGHTCLUB &
GRILL, LLC; RAVEN ENTERTAINMENT,
LLC on behalf of itself and on behalf of
nominal defendant STONEY'S
ENTERTAINMENT, INC.; and SEER
CARTEL, LLC.

Plaintiffs,

v.

CHRISTOPHER LOWDEN; and HAROLD
GRAY a.k.a. "STONEY,"

Defendants,

and

STONEY'S ENTERTAINMENT, INC.; and
SRC NIGHTCLUB & GRILL, LLC,

Nominal Defendants.

CASE NO.: **2:15-cv-2299**

**MEMBERS' AND SHAREHOLDERS'
VERIFIED DERIVATIVE COMPLAINT**

JURY DEMAND

1 Plaintiffs BATTALION CHIEF GRANDCHILDREN's FUND, by and through its
2 trustee ANGELINA GALLINDO ("GALLINDO") on behalf of herself and the nominal
3 defendant SRC NIGHTCLUB & GRILL, LLC ("SRC"); RAVEN ENTERTAINMENT, LLC
4 ("RAVEN") on behalf of itself and on behalf of nominal defendant STONEY'S
5 ENTERTAINMENT, INC. ("SEI"); and SEER CARTEL, LLC ("SEER CARTEL") by and
6 through their counsel Donath & Medrala PLLC, hereby complain against the Defendants
7 CHRISTOPHER LOWDEN ("LOWDEN") and HAROLD GRAY ("GRAY") as follows:
8

9 **I.**

10 **NATURE OF THE ACTION**

11 1. This is a member and shareholder derivative action brought for the benefit of
12 nominal defendants SRC and SEI against their controlling members, shareholders, board
13 members, and officers LOWDEN and GRAY to remedy their breaches of fiduciary duties and
14 waste of corporate assets arising out of their racketeering activities connected with their
15 fraudulent and intentional misappropriation of SRC and SEI's assets, issuing false and
16 fraudulent financial statements and other documents concerning the Nominal Defendants, gross
17 mismanagement, and abuse of control.
18

19 2. This action also involves GALLINDO and RAVEN, and SEER CARTEL's
20 direct claims against LOWDEN and GRAY for common law and securities fraud.
21

22 **II.**

23 **JURISDICTION**

24 3. This action arises under the statutes of the United States for violation of the
25 Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.*
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6. Venue is proper under 28 U.S.C. § 1391, insofar as a substantial part of the events or omissions giving rise to the Plaintiffs' claims occurred in the District of Nevada. Further, venue is proper because the Defendants do business in the District of Nevada.

PARTIES

8. Plaintiff RAVEN is a domestic limited liability company with its principal place of business in Clark County, Nevada. Initially, RAVEN was a Class A member of Nominal Defendant SRC and, thereafter, a shareholder of Nominal Defendant SEI.

10. Nominal Defendant SRC is a domestic limited liability company with its principal place of business in Clark County, Nevada.

11. Nominal Defendant SEI is a domestic corporation with its principal place of business in Clark County, Nevada.

1 18. In addition, GRAY and SRC sold the remaining 49 membership Units to various
2 other investors, including one CLINT LAWSON (“LAWSON”) who acquired 3 membership
3 Units of Class A membership.

4 19. Thereafter, on June 8, 2009, Plaintiff RAVEN acquired from LAWSON the said
5 3 membership Units in SRC, thus becoming an SRC’s Class A member.
6

7 20. Nevertheless, between 2008 and 2012, and after raising over \$2.5 million from
8 private investors, GRAY and LOWDEN used the majority of the investment to finance their
9 extravagant lifestyle, which included private expenses such as cars, UTVs, jet flights, vacations,
10 and various enterprises that they owned and controlled but in which SRC either did not have
11 any interest at all or did not receive adequate compensation in exchange for its investment.
12

13 21. For instance, with the money received from SRC’s investors in 2009 and 2010 in
14 Las Vegas, Nevada, GRAY and LOWDEN financed their private car-racing company,
15 Chapman Racing Products, LLC, d/b/a WICKED HP, in which SRC did not acquire any
16 beneficial interest at all.
17

18 22. In addition, while controlling and managing SRC, GRAY and LOWDEN
19 unlawfully issued membership interests, without consideration, to various individuals and
20 entities to pay off their own personal debts or to simply benefit their friends and family at the
21 expense of the SRC investors.
22

23 23. Between 2009 and 2012, GRAY and LOWDEN also issued to themselves, their
24 friends, and their families unauthorized cash advances from SRC using interstate mail and wire.

25 24. Moreover, to cover up their fraudulent and intentional activities, GRAY and
26 LOWDEN issued to SRC’s investors false financial statements, K-1s, and equity statements.
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1 25. For instance, without limitation, at least on one occasion, GRAY and LOWDEN
2 issued a K-1 statement to RAVEN in which they stated that RAVEN received a distribution
3 when in fact it did not.

4 26. Moreover, immediately after receiving the \$2.5 million investment in SRC,
5 GRAY and LOWDEN authorized small “distributions” to some investors—the distributions that
6 were financed from other investors’ money. Any such “distribution,” however, was unlawfully
7 accounted for by LOWDEN and GRAY to be a “return of capital” that reduced these investors’
8 capital account by the amount of such distribution.
9

10 27. In addition, between 2009 and 2012, LOWDEN and GRAY misappropriated
11 from SRC tens of thousands of dollars in cash that was collected by SRC as cover charges at
12 Stoney’s and that was not accounted for in company books or reported to the Internal Revenue
13 Service (“IRS”).
14

15 28. As a result of these fraudulent activities, SRC became insolvent.

16 29. Nevertheless, to cover their fraud at SRC, LOWDEN and GRAY created another
17 company, SEI, and in August 2012 offered the previous SRC’s investors a membership-interest
18 swap for SEI’s shares. They also issued several SEI’s shares to new investors. This equity swap
19 and share offering was done in violation of both federal and state laws requiring registration of
20 shares offered for public sale.
21

22 30. The equity-swap offering was done pursuant to an offer to enter into a “Member
23 Share Transfer and Exchange Agreement for SRC Nightclub & Grill, LLC, and Stoney’s
24 Entertainment, Inc.,” LOWDEN’s fraudulent representations as to the financial condition of
25 SEI, and the implied threat that absent the execution of the equity-swap agreement, the SRC’s
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1 investors will lose the value of their investment due to Stoney's planned closing in October
2 2012.

3 31. Relying on LOWDEN's representations as to SEI's financial condition, on
4 August 2, 2012, RAVEN signed the equity-swap agreement, thus becoming a shareholder of
5 SEI.
6

7 32. Nevertheless, the Plaintiff GALLINDO refused to sign the agreement and
8 subsequently lost her investment in SRC due to Stoney's closing its doors and SRC failing to
9 renew its business license with the Nevada Secretary of State.

10 33. GALLINDO has never received a closing K-1 from SRC, or any other statement
11 concerning the distribution or application of her \$50,000 investment in SRC. Her continuing
12 inquiries to LOWDEN and GRAY regarding her investment remain unanswered.
13

14 34. After the equity-swap agreement, LOWDEN and GRAY engaged in the same
15 scheme to defraud the investors—this time the SEI's investors—as they perpetuated at SRC.
16 Namely, they engaged in misappropriation of cash from the company's bank account, they paid
17 out various and unlawful advances to themselves, their friends, and their families, they financed
18 (in exchange for little or no beneficial interest at all) with SEI's money various other companies
19 and business activities belonging to them, their friends, or their families, such as Rockin' Taco,
20 Stoney's North Forty, Warehouse, Vegas Vic's, Wicked HP, and many others. Again, they
21 continued to finance their lavish lifestyle with SEI's money and intentionally misappropriated
22 hundreds of thousands of dollars belonging to SEI for their own benefit at the expense of SEI's
23 shareholders.
24
25

26 35. To further cover up their fraudulent activities at SEI, LOWDEN and GRAY
27 continued to issue on SEI's behalf false K-1s showing distributions to shareholders where none
28

1 were made, they issued financial statements misrepresenting the nature of SEI's growing
2 expenses, or they simply refused to provide any information concerning SEI's financial affairs.

3 36. As a result of LOWDEN and GRAY's fraudulent activities, SEI became
4 completely insolvent and closed its doors sometime in 2013.

5 37. Before SEI closed its doors, however, LOWDEN and GRAY tacitly "paid off"
6 from SEI's funds some selectively picked investors, mostly their friends and families.
7

8 38. Upon information and belief, LOWDEN and GRAY sold SEI's remaining assets
9 to SRC 1, LLC, d/b/a Las Vegas Bull, and distributed the proceeds from the sale among
10 themselves.

11 39. In addition, SRC's and SEI's intangible assets, such as their service marks, were
12 given to entities owned and controlled by LOWDEN's family such as Archon Corporation for
13 no consideration.
14

15 40. Neither SRC nor SEI's investors have ever received their final K-1s or any other
16 statements showing how SRC's or SEI's remaining assets were distributed after the companies
17 practically ceased to exist.
18

19 41. Moreover, on or about September 16, 2019, Defendant GRAY and LOWDEN
20 organized STONEY'S EVANSVILLE for the stated purpose of conducting a nightclub and bar
21 business in Evansville, Indiana.

22 42. In 2010, in Las Vegas, Nevada, allegedly, in order to finance the business
23 operations of STONEY'S EVANSVILLE, LOWDEN and GRAY, by way of private security
24 offering and in violation of federal and state laws, caused STONEY'S EVANSVILLE to offer
25 to the public units of membership interest at the price of \$50,000 per unit.
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1 43. Relying on LOWDEN and GRAY's representations," which stated, among other
2 things, that the money raised through the offering will be used solely to finance STONEY'S
3 EVANSVILLE business operations, Plaintiff SEER CARTEL bought 1 membership Unit in
4 STONEY'S EVANSVILLE at the price of \$50,000.

5 44. Nevertheless, between 2010 and 2012, yet again, and after raising hundreds of
6 thousands of dollars from private investors, GRAY and LOWDEN used the majority of the
7 investment to finance their extravagant lifestyle, private expenses such as cars, UTVs, jet
8 flights, vacations, and various enterprises which they owned and controlled, but in which
9 STONEY'S EVANSVILLE either did not have any interest.
10

11 45. For instance, with the money received from STONEY'S EVANSVILLE's
12 investors, in 2010, in Las Vegas, Nevada, GRAY and LOWDEN financed their private car
13 racing company, Chapman Racing Products, LLC d/b/a WICKED HP in which STONEY'S
14 EVANSVILLE did not acquire any beneficial interest at all.
15

16 46. In addition, while controlling and managing STONEY'S EVANSVILLE, GRAY
17 and LOWDEN, unlawfully issued membership interests, without consideration, to various
18 individuals and entities to pay off their own personal debts, or to simply benefit their friends
19 and family at the expense of the investors.
20

21 47. Between 2009 and 2012, GRAY and LOWDEN also issued to themselves, their
22 friends and family, unauthorized cash advances from STONEY'S EVANSVILLE using
23 interstate mail and wire.
24

25 48. At the time of making the representations described in Paragraph 42 above,
26 GRAY and LOWDEN knew or believed that their representations were false, and they intended
27 to induce SEER CARTEL to acquire a membership interest on STONEY'S EVANSVILLE in
28

1 exchange for their investment. SEER CARTEL relied on these representations and sustained
2 damages as the result of its reliance.

3 49. Due to LOWDEN's and GRAY's attempts to conceal their fraudulent activities
4 as described above, the Plaintiffs did not learn about them until December 5, 2012 when one of
5 LOWDEN and STONEY's creditors and former GRAY's friend Nathan Schweigart, informed
6 the SCR, and SEI investors about the fraudulent scheme.
7

8 **V.**

9 **DERIVATIVE NATURE OF THE COMPLAINT AND**

10 **FUTILITY OF DEMAND ALLEGATIONS**

11 50. Plaintiffs GALINDO and RAVEN bring this action in their personal capacities,
12 AND derivatively in the right and for the benefit of SRC and SEI to redress injuries suffered,
13 and to be suffered, by SRC and SEI as a direct result of breach of the Defendants' racketeered
14 and fraudulent acts, breach of fiduciary duties, waste of corporate assets, and unjust enrichment
15 by the Defendants. SRC and SEI are named as nominal defendant solely in a derivative
16 capacity. This is not a collusive action to confer jurisdiction on this Court that it would not
17 otherwise have.
18
19

20 51. Plaintiffs will adequately and fairly represent the interests of SRC and SEI in
21 enforcing and prosecuting their rights.
22

23 52. Plaintiff GALLINDO is a member of SRC and Plaintiff RAVEN is a shareholder
24 of SEI. Plaintiffs were members and shareholders of SRC and SEI respectively at the time of
25 the wrongdoings of which they complain, and they have continuously been members and
26 shareholders, as the case may be, of SRC and SEI.
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1 53. The current boards of both SRC and SEI consist only of the Defendants
2 LOWDEN and GRAY. Plaintiffs have not made a formal demand on the present boards to
3 institute this action because such a demand would be a futile, wasteful, and useless act as set
4 forth below.

5 54. The only board members of SRC and SEI are the Defendants LOWDEN and
6 GRAY, who orchestrated, participated, performed, and ratified the acts complained of in this
7 Complaint. Neither SRC nor SEI's board consists of any other directors who could be capable
8 of an impartial consideration of the demand. All of the SRC's and SEI's board members are
9 interested in the decision not to act on the demand and are incapable of exercising an
10 independent and disinterested business judgment in responding to such a demand.

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13 **VI.**

14 **FIRST CLAIM FOR RELIEF—RICO**

15 **(18 U.S.C. §§ 1961-1968—Civil RICO and NRS 207.470)**

16
17 55. Plaintiffs re-allege and incorporate by reference the allegations contained in the
18 foregoing paragraphs as if fully set forth here.

19 56. Since approximately 2009, LOWDEN and GRAY have engaged in a fraudulent
20 scheme to deprive GALLINDO, RAVEN and SEER CARTEL and others of money and/or
21 intangible assets by means of soliciting funds, purportedly as an investment in SRC, SEI and
22 STONEY'S EVANSVILLE but which LOWDEN and GRAY instead appropriated to support
23 their lavish personal expenditures.

24
25 57. LOWDEN and GRAY falsely represented in a "First Amended Confidential
26 Private Placement Memorandum," among other things, that the substantial investment monies
27 that they raised for SRC through the offering would be used solely to finance Stoney's.
28

1 58. In addition, while controlling and managing SRC, GRAY and LOWDEN
2 unlawfully issued membership interests, without consideration, to various individuals and
3 entities to pay off their own personal debts, or to simply provide a benefit to their friends and
4 families at the expense of bona fide investors.

5 59. LOWDEN and GRAY also issued to themselves, their friends, and their family
6 members unauthorized and illicit cash advances from SRC, SEI and STONEY'S
7 EVANSVILLE.
8

9 60. To conceal their fraudulent activities, LOWDEN and GRAY issued and mailed
10 to investors false financial statements, K-1s, and equity statements.
11

12 61. Moreover, immediately after receiving a \$2.5 million investment in SRC,
13 LOWDEN and GRAY unlawfully, or at least illicitly, accounted for distributions that it made to
14 some investors as a "return of capital," when in fact LOWDEN and GRAY approximated a
15 pyramid-like scheme, whereby they reduced the investors' capital by the amount of each
16 distribution, capital invested from other investors.
17

18 62. Later, in or near August 2012, LOWDEN and GRAY created a new company,
19 SEI, and coerced and/or swindled SRC investors into swapping their shares for a membership-
20 interest in SEI. LOWDEN and GRAY also issued several SEI shares to new investors.
21

22 63. At no point did LOWDEN or GRAY ever divulge that this swap for SEI's shares
23 violated federal and state laws requiring registration of sales offered for public sale. Indeed,
24 LOWDEN and GRAY deliberately sidestepped their legal obligations in order to financially
25 exploit its investors.

26 64. Moreover, LOWDEN and GRAY made false representations about the financial
27 condition of SEI to their investors, including GALLINDO and RAVEN, deceiving them with an
28

1 implied threat that absent their cooperation with the equity swap arrangement, GALLINDO and
2 RAVEN would lose the value of their investment due to the purported closing of Stoney's in
3 October 2012.

4 65. But even after deceiving GALLINDO, RAVEN, and the other investors into
5 cooperating with an equity-swap arrangement, LOWDEN and GRAY did not relent in
6 defrauding them, this time with respect to SEI, rather than SRC.
7

8 66. LOWDEN and GRAY's deliberate omissions, pursuant to written
9 announcements and/or solicitations, were also made by way of written communications and sent
10 by wire and/or mail.
11

12 67. As a result of LOWDEN and GRAY's actions and omissions in furtherance of
13 their scheme, plaintiffs GALLINDO and RAVEN irrevocably lost substantial funds and assets.

14 68. Also as a result of LOWDEN and GRAY's actions and omissions in furtherance
15 of their scheme, SEI was rendered insolvent and stopped operating.
16

17 69. In performing these aforementioned acts, LOWDEN and GRAY used the
18 United States mail, telephone, electronic communications, and/or an interstate communications
19 to facilitate their scheme.

20 70. "Mail fraud" consists of the use of any fraudulent scheme to intentionally
21 deprive another of property or legitimate services, and/or in furtherance of the scheme, relying
22 in any way upon the United States mail, or making any false representations by means of the
23 United States mail.
24

25 71. "Wire fraud" consists of the use of any fraudulent scheme to intentionally
26 deprive another of property or legitimate services, and/or in furtherance of the scheme, relying
27
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1 in any way upon telephone communications, electronic communications, or an interstate
2 communications facility.

3 72. The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C.
4 sections 1961-1968 is directed at “racketeering” activity, defined in section 1961(1) to
5 encompass, *inter alia*, acts “indictable” under specific federal criminal provisions, including
6 mail and wire fraud.
7

8 73. 18 U.S.C. section 1964(c) prohibits conducting or participating in the conduct of
9 an enterprise “through a pattern of racketeering activity.” This section also provides for a
10 private civil right of action for any person injured in his or her business or property “by reason
11 of a violation of section 1962,” to recover *treble* damages.
12

13 74. GALLINDO, RAVEN and SEER CARTEL have been injured, as described
14 above, by reason of LOWDEN and GRAY’s violation of section 1962 and, thus, may prosecute
15 their claims against the defendants pursuant to RICO for treble damages.
16

17 75. Nevada law also provides for a civil right of action for racketeering, with the
18 predicate acts of wire and/or mail fraud, pursuant to Nevada Revised Statutes (NRS) 207.470.

19 76. As described above, LOWDEN and GRAY have engaged in several illicit and
20 illegal predicate acts or crimes related to racketeering as defined in NRS 207.360, including
21 embezzlement of money or property valued at \$250 or more, obtaining possession of money or
22 property valued at \$250 or more by false pretenses, and/or taking property from another under
23 circumstances not amounting to robbery.
24

25 77. LOWDEN and GRAY have, with criminal intent, received investment proceeds
26 from racketeering activity as set forth herein, and they used those proceeds for their own
27 personal use and/or to invest in other companies in violation of NRS 207.400(1)(a).
28

1 78. As a direct and proximate result of LOWDEN and GRAY's wrongful actions,
2 Plaintiffs have suffered and will continue to suffer damages, the exact amount to be determined
3 at trial.

4 79. LOWDEN and GRAY's wrongful actions were done with improper motives and
5 with willful, wanton, or reckless disregard of GALLINDO, RAVEN and SEER CARTEL's
6 rights, or were done oppressively or with malice. GALLINDO, RAVEN and SEER CARTEL
7 are, therefore, are entitled to punitive and treble damages.

8
9 80. Plaintiffs have suffered additional damages in the form of attorney fees as a
10 proximate and foreseeable result of LOWDEN and GRAY's wrongful actions.

11
12 **VII.**

13 **SECOND CLAIM FOR RELIEF—BREACH OF FIDUCIARY DUTIES**

14 81. Plaintiffs re-allege and incorporate by reference the allegations contained in the
15 foregoing paragraphs as if fully set forth here.

16 82. As members of SRC and STONEY'S EVANSVILLE, majority shareholders of
17 SEI and directors and officers of SRC, SEI and STONEY'S EVANSIVLEE, LOWDEN and
18 GRAY owe SEI, SRC, and Plaintiffs fiduciary obligations. Each company's by-laws, articles of
19 incorporation, other company papers, as well as the common law specifically set forth the duties
20 of loyalty, care, and good faith that LOWDEN and GRAY—comprising the entirety of the
21 companies' Board of Directors—are required to fulfill on behalf of the company. The violation
22 and/or omission of any of these duties constitutes a breach of fiduciary duty.

23
24 83. Under Nevada law, the board bears ultimate responsibility for the management of
25 the company. NRS 78.120 provides that "the board of directors has full control over the affairs of
26 the corporation."
27
28

1 84. Nevada law also places limits on directors' discretion so that corporations might
2 act lawfully and serve the interest of their shareholders. NRS 78.138 provides, "Directors and
3 officers shall exercise their powers in good faith and with a view to the interests of the
4 corporation."

5 85. The common law fiduciary duties of loyalty, care, and good faith require directors
6 and officers to strictly avoid any conflict between duty and self-interest. Undivided allegiance to
7 the corporation's best interest is required.
8

9 86. The SRC, STONEY'S EVANSVILLE and SEI's board, consisting of LOWDEN
10 and GRAY who were also SRC and STONEY'S EVANSVILLE's members and SEI's majority
11 shareholders, has breached its fiduciary duty by, among other things, self-dealing and using their
12 position for personal profit at the expense of the company.
13

14 87. The board has done so by unlawfully issuing membership interests, without
15 consideration, to various individuals and entities to pay off their personal debts, and/or to
16 simply benefit their friends and families at the expense of investors.
17

18 88. The board has issued to themselves, their friends, and family members
19 unauthorized cash advances.

20 89. The board has issued to investors false financial statements, K-1s, and equity
21 statements.
22

23 90. The board has facilitated a "pyramid" scheme, by having authorized
24 "distributions" to some investors using other investors' money.

25 91. The board has refused to provide investors, particularly GALLINDO, with a
26 closing K-1 from SRC or any other statement concerning the distribution or application of her
27 \$50,000 investment in SRC.
28

1 92. The board has coerced and deceived investors, including the plaintiffs,
2 GALLINDO and RAVEN, into swapping their shares for shares in another company in order to
3 appropriate additional monies for the board's own use.

4 93. The board has misappropriated tens of thousands of dollars from one or all of the
5 companies' that they serve and that comprise the nominal defendants in this case.
6

7 94. The board has misappropriated cash from the company's bank account, paid out
8 various and unlawful advances to themselves, their friends, and family members, and have
9 financed without consideration, using SEI's funds, various *other* companies and business
10 activities belonging to them, their families, or friends, as described herein.

11 95. After forcing the insolvency of SEI, the board appropriated some of its funds and
12 selectively paid some of its investors, namely their friends and family members. The rest of the
13 funds and/or assets of SEI the board sold and distributed to itself (i.e., LOWDEN and GRAY).
14

15 96. The board gave, without consideration, to entities controlled by LOWDEN's
16 family, intangible assets belonging to SRC, STONEY'S EVANSVILLE and SEI, including
17 their trademarks, service marks, and/or other intellectual property and/or good will.
18

19 97. The board failed to renew respective business licenses with the Nevada Secretary
20 of State.

21 98. By all of these actions and/or omissions, the board has breached its fiduciary
22 duty with respect to loyalty, care, and good faith towards SRC, SEI, STONEY'S EVANSVILLE,
23 GALLINDO, RAVEN, SEER CARTEL and other members and shareholders. The board has
24 also breached its fiduciary duty by failing to establish and maintain adequate internal controls to
25 ensure that SRC, STONEY'S EVANSVILLE and SEI are operated in a prudent and lawful
26 manner.
27
28

1 99. Among other things, the board also has a duty to ensure that members and
2 shareholders have truthful and complete financial statements from validly issued and registered
3 shares of restrictive common stock. The board's continuing failure to do so constitutes a breach
4 of its fiduciary duties.

5 100. The board's behavior in paying itself, its friends, and families, and entities
6 connected with its friends and families, constitutes an egregious breach of fiduciary duty and
7 attenuates any appeal that the board may make to reasonable business judgment.

8 101. The board has knowingly participated in, approved, and permitted the wrongs
9 and/or conflicts of interest and breach of fiduciary duties herein to have occurred, and the board
10 has benefited from the wrongdoing. As such, the board is not entitled to the protection of the
11 business judgment rule.

12 102. As a direct and proximate result of LOWDEN and GRAY's breach of fiduciary
13 duties as described above, Plaintiffs and Nominal Defendants have suffered and will continue to
14 suffer damages, the exact amount to be determined at trial.

15 103. As a further proximate result of LOWDEN and GRAY's breach of fiduciary
16 duties as described above, Plaintiffs and Nominal Defendants are entitled to punitive damages
17 in an amount to be proved at trial.

18 104. Plaintiffs and Nominal Defendants have suffered additional damages in the form
19 of attorney fees as a proximate and foreseeable result of LOWDEN and GRAY's breach.

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24 **VIII.**

25 **THIRD CLAIM FOR RELIEF—INTENTIONAL MISREPRESENTATION (FRAUD)**

26 105. The Plaintiffs re-allege and incorporate by reference the allegations contained in
27 the foregoing paragraphs as if fully set forth here.

1 106. LOWDEN and GRAY ostensibly organized SRC and STONEY'S
2 EVANSVILLE in order to operate nightclub and bar businesses.

3 107. LOWDEN and GRAY, by way of private security offering, and in violation of
4 federal and state laws, caused SRC and STONEY'S EVANSVILLE to offer to the public units
5 of membership interests in SRC and STONEY'S EVANSVILLE at the price of \$50,000 per
6 Unit.
7

8 108. LOWDEN and GRAY misrepresented to the plaintiffs, among others, by means
9 of a written document, "First Amended Confidential Private Placement Memorandum SRC-
10 Nightclub and Grill, LLC," that the money that LOWDEN and GRAY raised would be used
11 solely to finance STONEY'S and STONEY'S EVANSVILLE.
12

13 109. GALLINDO relied upon LOWDEN and GRAY's misrepresentation, purchasing
14 1 membership Unit in SRC at the price of \$50,000.

15 110. RAVEN relied upon LOWDEN and GRAY's misrepresentation, purchasing 3
16 membership Units in SRC, becoming a Class A member of SRC.
17

18 111. SEER CARTEL relied upon LOWDEN and GRAY's misrepresentation, purchasing
19 1 membership units in STONEY'S EVANSVILE, becoming its member.

20 112. Contrary to their representations to GALLINDO, RAVEN and SEER CARTEL,
21 and after raising over \$2.5 million from various private investors (including GALLINDO
22 RAVEN, and SEER CARTEL), LOWDEN and GRAY appropriated the majority of the
23 investments for their extravagant, personal expenses, including their luxury vehicles, UTVs, jet
24 flights, vacations, and diverse enterprises that LOWDEN and GRAY owned and/or controlled
25 (including a private car-racing company), but in which SRC and STONEY'S EVANSVILLE
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1 either did not have an interest at all, or from which SRC and STONEY’S EVANSVILLE did not
2 receive adequate compensation in exchange for its investment.

3 113. LOWDEN and GRAY, also while controlling and managing SRC and
4 STONEY’S EVANSVILLE, unlawfully issued membership interests, without consideration, to
5 themselves and various individuals and entities to pay off their personal debts, and/or to lavish
6 financial gains upon their friends and family members. All of this was done at the expense of
7 their investors.
8

9 114. LOWDEN and GRAY also issued to SRC and STONEY’S EVANSVILLE’s
10 investors, false financial statements, K-1s, and equity statements, to create the impression that
11 the companies were doing better than they actually were, and that “distributions” were being
12 made to investors.
13

14 115. The distributions were unlawfully accounted for, however, and were not actually
15 a return of capital to investors, but were actually financed from other investors’ money, as in a
16 “pyramid” scheme.
17

18 116. LOWDEN and GRAY misappropriated from SRC and STONEY’S
19 EVANSVILLE thousands of dollars that they collected as cover charges, and they did not
20 account for them in the companys’ books.

21 117. As a result of these fraudulent activities, which took place between 2009 and
22 2012, SRC and STONEY’S EVANSVILLE became insolvent.
23

24 118. Undeterred, LOWDEN and GRAY created *another* company, SEI, and then
25 offered SRC’s investors a membership-interest swap for SEI’s shares and issued several SEI
26 shares to new investors without registering them, violating both federal and state laws in the
27 process.
28

1 119. LOWDEN and GRAY fraudulently misrepresented the financial condition of SEI,
2 and relying upon this, RAVEN became a shareholder of SEI.

3 120. GALLINDO did not agree to become a shareholder of SEI and never received any
4 communication from LOWDEN and/or GRAY regarding the status of her investment in SRC.

5 121. Both GALLINDO and RAVEN have lost substantial assets and business
6 opportunities as a result of LOWDEN and GRAY's misconduct.

7 123. Fraudulent or intentional misrepresentation occurs where a defendant makes a
8 false representation that defendant knew or believed was false, or where defendant had an
9 insufficient basis of information for making the representation.
10

11 124. Defendants intended to induce Plaintiffs to act or refrain from acting upon the
12 misrepresentation, Plaintiffs justifiably relied upon Defendants' representation, and Plaintiffs
13 sustained damages as a result.
14

15 125. As described above, LOWDEN and GRAY made several false representations
16 that they knew or believed to be false, including the financial stability of the company for which
17 they solicited investments, and the ultimate ends of such investments, which largely went to fund
18 their extravagant personal expenses, and not the company.
19

20 126. LOWDEN and GRAY intended to induce GALLINDO, RAVEN and/or SEER
21 CARTEL to invest in SRC, STONEY'S EVANSVILLE, and/or SEI, and/or to make the equity
22 swap from SRC to SEI. Plaintiffs justifiably relied upon LOWDEN and GRAY's false
23 representations, by investing in the companies and/or engaging in an equity swap of their
24 investment interest, which caused both of them to lose substantial assets and/or money.
25

26 127. As a result of LOWDEN and GRAY'S intentional misrepresentations, Plaintiffs
27 have suffered and will continue to suffer damages, the exact amount to be determined at trial.
28

1 128. As a further proximate result of LOWDEN and GRAY'S intentional
2 misrepresentations, Plaintiffs are entitled to punitive damages in an amount to be proved at trial.

3 **IX.**

4 **FOURTH CLAIM FOR RELIEF—UNJUST ENRICHMENT**

5 129. Plaintiffs re-allege and incorporate by reference the allegations contained in the
6 foregoing paragraphs as if fully set forth here.

7
8 130. By using funds for their personal use that were intended as investments for SRC,
9 STONEY'S EVANSVILLE and/or SEI, LOWDEN and GRAY unjustly retained the money or
10 property of another, GALLINDO, RAVEN, SEER CARTEL, SRC, and/or SEI.

11 131. LOWDEN and GRAY retained GALLINDO, RAVEN, SEER CARTEL, SRC,
12 and/or SEI's money or property against fundamental principles of justice or equity and good
13 conscience.
14

15 132. The value of the money and property unjustly retained by LOWDEN and GRAY
16 will be determined at trial.

17 133. In addition, Plaintiffs and Nominal Defendants have suffered damages in the
18 form of attorney fees as a proximate and foreseeable result of LOWDEN and GRAY's unjust
19 retention of the money and property of Plaintiff and/or Nominal Defendants.
20

21 **X.**

22 **FIFTH CLAIM FOR RELIEF—CIVIL CONSPIRACY**

23 134. The Plaintiffs re-allege and incorporate by reference the allegations contained in
24 the foregoing paragraphs as if fully set forth here.
25
26
27
28

1 135. Civil conspiracy consists of defendants, acting in concert, intending to
2 accomplish an unlawful objective for the purpose of harming plaintiff, and plaintiff sustains
3 damage resulting from defendant's act or acts.

4 136. LOWDEN and GRAY acted in concert to deceive and delude investors,
5 including GALLINDO, RAVEN and SEER CARTEL regarding the viability of the subject
6 companies, SRC, STONEY'S EVANSVILLE and/or SEI, in order to persuade them to invest in
7 the companies so that LOWDEN and GRAY could use the investment monies for their own
8 personal ends.
9

10 137. LOWDEN and GRAY together issued fraudulent financial documentation with
11 respect to the companies and/or failed to properly register and/or account for shares in the
12 companies in order to achieve their ends.
13

14 138. LOWDEN and GRAY together acted in concert to breach their fiduciary duties
15 toward SRC and SEI as described above.
16

17 139. Such conduct was patently unlawful under both federal and state law.

18 140. LOWDEN and GRAY thus acted in concert, and evidently intended to
19 accomplish an unlawful objective of defrauding the investors, including GALLINDO, RAVEN,
20 and SEER CARTEL for the purpose of harming GALLINDO, RAVEN, and SEER CARTEL
21 among other investors, and for the purpose of harming Nominal Defendants SRC and SEI.
22

23 141. As a direct and proximate result of LOWDEN and GRAY's conspiracy,
24 GALLINDO, RAVEN, SEER CARTEL, SRC, and/or SEI sustained damages in an amount to
25 be determined at trial.

26 142. As a further proximate result of LOWDEN and GRAY's conspiracy, Plaintiffs
27 and/or Nominal Defendants are entitled to punitive damages in an amount to be proved at trial.
28

XI.

SIXTH CLAIM FOR RELIEF—ACCOUNTING

143. The Plaintiffs re-allege and incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth here.

144. As a result of the business relationship between and among GALLINDO, RAVEN, SEER CARTEL and defendants, LOWDEN and GRAY, the latter undertook a duty to maintain funds and assets on behalf of SRC, STONEY’S EVANSVILLE and/or SEI, on behalf of the Nominal Defendants and/or investors, including GALLINDO, RAVEN and SEER CARTEL for their own benefit.

145. To date, LOWDEN and GRAY have refused to openly and fully account for the funds and assets that they misappropriated and/or mishandled, and they have further failed and/or refused to distribute the proper monies to GALLINDO, RAVEN and SEER CARTEL.

146. SRC, SEI, GALLINDO, RAVEN, SEER CARTEL as members and minority shareholders of SRC, SEI, and STONEY’S EVANSVILLE are entitled to an accounting and their share of the funds and assets that LOWDEN and GRAY have misappropriated and/or mishandled.

XII.

SEVENTH CLAIM FOR RELIEF—SECURITIES FRAUD

(Violations of Securities Act Section 17(a); 15 U.S.C. § 77q(a))

147. The Plaintiffs re-allege and incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth here.

148. As herein described, LOWDEN and GRAY directly or indirectly, knowingly, recklessly, or negligently, in the offer or sale of securities in SRC, STONEY’S EVANSVILLE

and SEI, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mail, have each: (a) employed devices, schemes, or artifice to defraud; (b) obtained money or property by means of untrue statement of material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business which operated or would have operated as a fraud or deceit upon purchasers SRC, STONEY'S EVANSVILLE and/or SEI securities.

149. By engaging in the conduct alleged above, LOWDEN and RAVEN each violated Securities Act Section 17(a) [15 U.S.C. § 77q(a)].

150. As a direct and proximate result of the Defendants' violations of Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Plaintiffs have suffered damages in an amount to be determined at trial.

XIII.

EIGHTH CLAIM FOR RELIEF—SECURITIES FRAUD

(Violations of Exchange Act Section 10(b); 15 U.S.C. § 78j(b))

151. The Plaintiffs re-allege and incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth here.

152. LOWDEN and GRAY directly or indirectly, knowingly, recklessly, or negligently, in the offer or sale of securities in SRC, STONEY'S EVANSVILLE and SEI, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mail, have each: (a) employed devices, schemes, or artifice to defraud; (b) obtained money or property by means of untrue statement of material fact or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which

1 they were made, not misleading; or (c) engaged in transactions, practices, or courses of business
2 which operated or would have operated as a fraud or deceit upon purchasers SRC and/or SEI
3 securities.

4 153. By engaging in the conduct alleged above, LOWDEN and GRAY each violated
5 Exchange Act section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. §
6 240.10b-5].
7

8 154. As a direct and proximate result of the Defendants' violations of Exchange Act
9 section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5],
10 Plaintiffs have suffered damages in an amount to be determined at trial.
11

12 XIV.

13 NINTH CLAIM FOR RELIEF—SECURITIES FRAUD

14 (Violations of Exchange Act Rule 13b2-2; 17 C.F.R. § 240.13b2-2)

15 155. The Plaintiffs re-allege and incorporate by reference the allegations contained in
16 the foregoing paragraphs as if fully set forth here.
17

18 156. LOWDEN and GRAY directly or indirectly (i) made or caused to be made
19 materially false or misleading statements or (ii) omitted to state, or caused others to omit to
20 state, material facts necessary in order to make the statements made, in light of the
21 circumstances under which they were made, not misleading, to an accountant in connection
22 with the filing of a document or report required to be filed with the Securities and Exchange
23 Commission (SEC).
24

25 157. By engaging in the conduct alleged above, LOWDEN and GRAY each violated
26 Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].
27
28

XVI.

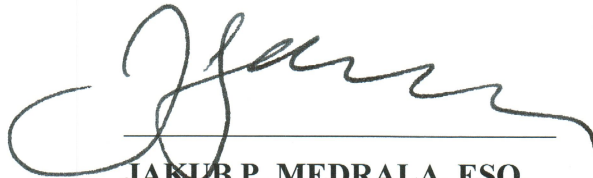
JURY DEMAND

163. Plaintiffs hereby demand a trial by jury on all issues described in this Complaint.

WHEREFORE, the Plaintiffs request that this Court:

1. Finds in favor of Plaintiffs and against Defendants, and each of them;
2. Awards Plaintiffs and Nominal Defendants compensatory damages;
3. Awards Plaintiffs and Nominal Defendants punitive damages;
4. Awards Plaintiffs and Nominal Defendants attorney fees and costs to Plaintiffs;
5. Awards such other relief as the Court may deem just and appropriate.

DATED this 5th day of December 2015.



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Attorneys for Plaintiffs

VERIFICATION

I, Richard Mell, declare under the penalty of perjury:

I am the managing member of Raven Entertainment, LLC, ("Raven") a Plaintiff in this action. Raven Entertainment is a shareholder of STONEY'S ENTERTAINMENT, INC and a former member of SRC NIGHTCLUB & GRILL, LLC, and have been during the relevant period described in the Complaint. I certify under penalty of perjury that I have read and reviewed the above Complaint and authorized its filing. Based upon Raven's and Raven's Counsel's investigation, the contents of the Complaint are true to the best of my knowledge, information and belief.

Dated this 5th day of December 2015.

Raven Entertainment, LLC

By: 

Richard Mell, Managing Member

VERIFICATION

I, Angelina Galindo, declare under the penalty of perjury:

I am the trustee of BATTALION CHIEF GRANDCHILDREN's FUND, a Plaintiff in this action. I am a member of SRC NIGHTCLUB & GRILL, LLC, and have been during the relevant period described in the Complaint. I certify under penalty of perjury that I have read and reviewed the above Complaint and authorized its filing. Based upon my and my counsel's investigation, the contents of the Complaint are true to the best of my knowledge, information and belief.

Dated this 5th day of December 2015.


By: _____
Angelina Galindo